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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

GEORGE JOHNSON,

Plaintiff

vs.

DONALD P. WANG,

Defendant

No. 2:16-cv-01738

**DEFENDANT'S PROPOSED
PRETRIAL ORDER**

Donald Wang, acting pro se submits this following pretrial order because counsel for the plaintiff is unwilling or was unable to incorporate the defendant's latest changes, which were submitted by email on Friday at 4:30 p.m. and Monday at 1:19 p.m.. He last talked to defendant's counsel at approximate 12:45 p.m, yesterdaywho indicated he would be busy the rest of the afternoon and may not be able to discuss it further. The defendant denies that the plaintiff has been diligent and acted in good faith in this matter as he continues to incorporate changes that defendant has refused to stipulate to. The following proposed Pretrial Order incorporates Wang's version and shows the areas of disagreement which defendant Wang proposes the court should resolve.

JURISDICTION

Plaintiff contends that jurisdiction is vested in this Court by virtue of 28 U.S.C. § 1333.
Defendant denies that this is an admiralty or maritime case.

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6 **CLAIMS AND DEFENSES**

7 1. The plaintiff will pursue at trial the following claims: Quantum meruit wages under
8 the general maritime law, and to prevent unjust enrichment to the defendants; double wage
9 penalties and attorney fees for the failure to pay wages, without any bona fide dispute over
10 plaintiff's entitlement; punitive damages for the willful and wanton refusal to pay wages;
11 prejudgment interest.

12 2. Because Defendant's counterclaim was terminated on 8/22/2017, Defendant will
13 pursue the following affirmative defenses:

- 14 a. Lack of consideration
15 b. Fraud
16 c. Unclean hands
17 d. No remedies available under maritime, admiralty or Seaman's compensation act
18 because the boat never left the port.

19 **ADMITTED FACTS**

20 The following facts are admitted by the parties:

- 21 1. The F/V Thor is a 62-foot wooden halibut schooner of 70 gross tons, built 1925 in
22 Tacoma.
23 2. Defendant Wang purchased the F/V Thor on July 12, 2016 for \$25,000.
24 3. Defendant Wang applied for and was issued a commercial fishing license for the
25 F/V Thor with George Johnson's name on it.
26 4 Defendant refuses to stipulate to any fact that suggests some kind of "offer" because a
27 completed offer was never made.
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5 **ISSUES OF LAW**
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7 The following are issues of law to be determined by the Court:

8 1. Is plaintiff entitled to quantum meruit wages if Defendant breached an oral contract of
9 employment?

10 2. Is the plaintiff entitled to wages at a higher rate than \$15/hour if defendant breached
11 his promise to let plaintiff fish the 2016 tuna season?

12 3. If the Court finds that there was no contract of employment, is Plaintiff entitled to
13 quantum meruit wages to prevent unjust enrichment to Defendant?

14 4. Are punitive damages available to commercial fishermen asserting wage claims?

15 5. What law governs this case?

16 **EXPERT WITNESSES**

17 On Behalf of Plaintiff: None.

18 On Behalf of Defendant: None

19 **OTHER WITNESSES**

20 On Behalf of Plaintiff:

21 1. Plaintiff himself

22 2. Elwood Latta

23 3. Frank Price

24 4. Steven Alexander

25 5. Rick Beze

26 6. Ray Forsman

27 7. Officer Matthew Huston

28 8. Alexander Oldfin

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4 9. Aaron Vantleven

5 On Behalf of Defendant:

- 6 1. The defendant
7 2. Tom Riedinger

8 In addition, the defendant reserves the right to call the plaintiff's witnesses as his witnesses.

9 **EXHIBITS**

10 Authenticity stipulated, admissibility disputed:

11 Plaintiff's Exhibits:

- 12 1. Certificate of Documentation for F/V Thor.
13 2. General Index or Abstract of Title for F/V Thor.
14 3. Primary Operator License (for plaintiff) from the Washington Department of Fish and
15 Wildlife; and a detail of expenditures made by plaintiff for the F/V Thor.
16 4. Pacific Highly Migratory Species Vessel Permit for F/V Thor and Donald P. Wang
17 from National Marine Fisheries Service, issued July 28, 2016.
18 5. June – September calendar pages for days and hours worked by plaintiff on the F/V
19 Thor.
20 6. Partial List of work performed on the F/V Thor by plaintiff.
21 7. Transcript of Donald P. Wang deposition
22 8. Port of Seattle Police Department Report and Supplement Report # 2016-41751

23 Defendant's Exhibits:

- 24 1. United States Coast Guard MISLE Incident Investigation Report For MISLE Case
25 Number: 472191.
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4 **ACTION BY THE COURT**

5 (a) This case is scheduled for trial without a jury on August 13, 2018.

6 (b) Trial briefs shall be submitted to the Court on or before August 6, 2018.

7 THIS ORDER has been approved by the parties by evidenced by the signatures of their
8 counsel. THIS ORDER shall control the subsequent course of the action unless modified by
9 subsequent order. THIS ORDER shall not be amended except by Order of the Court pursuant to
10 agreement of the parties or to prevent manifest injustice.

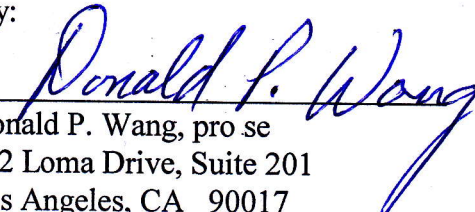
11 DATED this _____ day of July, 2018.

12
13 _____
14 JAMES L. ROBART
15 United States District Judge

16 ***Approved as to Form:***
17 LAW OFFICE OF JOHN MERRIAM and

18 Neil Lindquist

19 By: _____
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